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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,336	09/27/2001	Richard C. Durfield		3146

7590 08/14/2006

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EXAMINER

APPLE, KIRSTEN SACHWITZ

ART UNIT PAPER NUMBER

3693

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/966,336

**Applicant(s)**

DURFIELD, RICHARD C.

**Examiner**

Kirsten S. Apple

**Art Unit**

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>no IDS</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## Detailed Action

This action is in response to the application filed on 09/27/2001.

### *Priority*

No claim for priority has been made in this application.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by

D'Agostino US Patent 6,324,526.

**Re claim 1:** D'Agostino discloses:

*A method, consisting of:*

*Swiping a credit card at a merchant's modem terminal (see D'Agostino, Figure 1, Item 14)*

*Transmitting the credit card's coded information to public switch telephone network (see D'Agostino, Figure 3, between Item 56' & 66')*

*Concurrently to the credit card center modem and to the card holder modem (see D'Agostino, Figure 3, Item 64)*

*Credit card code info fed through modem to public broadcast exchange communicates with server & Stored & approved (see D'Agostino, Figure 3, Item 64)*

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*Credit card center awaits authorization from customer, notified by merchant modem, modem translates customer selections (see D'Agostino, Figure 1, Item 24)*

*If insufficient fund credit card center transmits independent signal (see D'Agostino, Figure 1, Item 26, it is inherent that "authorization" includes verifying sufficient funds in account)*

**Re claim 2:** D'Agostino discloses:

*A method, consisting of:*

*An electronic signal initiated charge card transactions (see D'Agostino, Figure 1, Item 14)*

*At the time of use the processing company is contacted with the amount of the transaction and the account number (see D'Agostino, Figure 1, Item 14). Concurrently the card holder is immediately notified by one or more of the currently available electronic or wireless technologies, to approved or disapproved transaction (see D'Agostino, Figure 1, Item 22). The transaction is not complete until approved. (see D'Agostino, Figure 1, Item 26)*

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The core of the invention by the applicant dates back many, many years, including a patent from 1976. Atalia, US Patent 3,938,091 teaches personal verification system.

Davis et al., U.S. Patent No 4,745,267, discloses detecting fraudulent card activity using a code.

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Degen et al., U.S. Patent 6,254,000, teaches authorization fraud warnings.

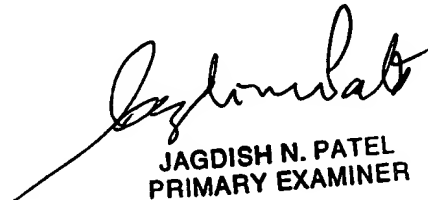
***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

  
JAGDISH N. PATEL  
PRIMARY EXAMINER